

EO-208
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SURFACE TRANSPORTATION BOARD

Washington, DC 20423

Office of Economics, Environmental Analysis, and Administration

May 13, 2005

Mr. Charles Miller
Rail Operations Manager
Vermont Agency of Transportation
National Life Building, Drawer 33
Montpelier, VT 05633-5001

Re: STB Docket No. AB-444 (Sub-No. 1X), Lamoille Valley Railroad
Company – Abandonment Exemption – in Caledonia, Washington,
Orleans, Lamoille, and Franklin Counties, VT

Dear Mr. Miller:

I am writing to follow-up on the telephone conversation you had with Ms. Rini Ghosh of my staff on April 27, 2005. In that conversation you indicated that you believed the Lamoille Valley Railroad Company (LVRC) and the Vermont Division for Historic Preservation (State Historic Preservation Office or SHPO) had reached an agreement regarding the potential historic structures on the line proposed for abandonment. You also requested that we send you information regarding the remaining steps needed to complete the Section 106 process of the National Historic Preservation Act (NHPA) for this proceeding. Below is a summary of the Section 106 process to date and our proposal for next steps in the process.

Background

On February 13, 2004, the Surface Transportation Board (Board) served a decision approving the above-titled abandonment proceeding subject to several conditions, one of which stated: LVRC shall retain its interest in and take no steps to alter the historic integrity of the line and all sites and structures on the line until completion of the Section 106 process of NHPA.

The Board's Section of Environmental Analysis (SEA), the office within the Board responsible for ensuring the Board's compliance under NHPA, then communicated with the Vermont SHPO and was informed that the Vermont SHPO had been corresponding with LVRC regarding the proposed abandonment and potential impacts to historic resources. SEA requested that the Vermont SHPO provide copies of the correspondence to SEA, and the Vermont SHPO did so (see enclosed letter to James B. Fitzgerald). The Vermont SHPO also provided a letter to SEA making a finding of no adverse effect to historic resources provided that three conditions were met (see enclosed letter to Victoria Rutson). These conditions included the following: (1) evaluation of structures along the line by a qualified architectural historian to determine eligibility for listing in the National Register of Historic Places; (2) review, by a qualified architectural historian, to determine the effects of the project on historic resources; and (3) maintenance of structures identified as historic.

Next Steps

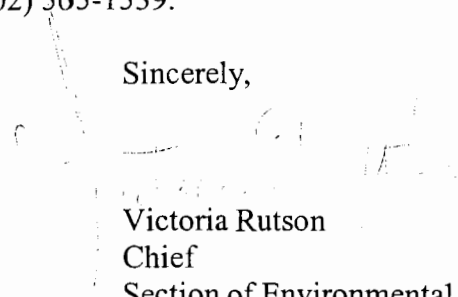
We request that you provide us with a written response stating LVRC's position regarding the conditions recommended by the Vermont SHPO. If LVRC or another appropriate entity agrees to the Vermont SHPO's conditions, we believe the Section 106 process will be concluded, and we can recommend to the Board that the condition requiring LVRC to retain its interest in and take no steps to alter the historic integrity of the line and all sites and structures on the line until completion of the Section 106 process be removed.

If an agreement regarding the conditions recommended by the Vermont SHPO has not yet been reached, we will consult further with all appropriate parties, pursuant to the provisions of the Section 106 process. See 36 CFR Part 800.

In rail abandonment proceedings, the Board can impose historic preservation conditions only to the extent that the particular property is owned by the railroad seeking abandonment (either full ownership in fee or a long-term interest in the property) and the property has a sufficient nexus to the proposal under review. When the Board imposes historical preservation conditions on particular property, the Board cannot force the applicant to sell or donate its property, or impose a restrictive covenant upon the deed. Essentially, documentation of the historic resources (taking photographs or preparing a history) before they are altered or removed is the only form of nonconsensual mitigation the Board can require. Although the Board has limited authority to protect historic properties, if the consulting parties agree to undertake additional mitigation beyond what the Board may require (such as preservation of a resource), such consensual mitigation can be incorporated in an agreement prepared pursuant to the Section 106 process or in a Board decision. See Implementation of Environmental Laws, 7 I.C.C.2d 807, 828-29 (1991); and Consolidated Rail Corporation – Abandonment Exemption – Lancaster and Chester Counties, PA, ICC Docket No. AB-167 (Sub-No. 1095X) (STB served Oct. 24, 2002).

If you need additional information or have any questions, please do not hesitate to contact me or Rini Ghosh of my staff at (202) 565-1539.

Sincerely,



Victoria Rutson
Chief
Section of Environmental Analysis

cc: Mr. Eric Gilbertson, Vermont Division for Historic Preservation

Enclosures



STATE OF VERMONT

AGENCY OF COMMERCE AND COMMUNITY DEVELOPMENT

February 6, 2004

James B. Fitzgerald
Lamoille Valley Railroad Company
c/o Vermont Agency of Transportation, Rail Section
National Life Building
Drawer 33
Montpelier, VT 05633-5001

DEPARTMENT
OF HOUSING &
COMMUNITY
AFFAIRS

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- Community Development
- Historic Preservation
- Housing
- Planning

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**Re: Proposed Abandonment and Discontinuance Exemption, Lamoille Valley Railroad Company Line (1) from Swanton, Vermont to St. Johnsbury, Vermont and (2) along the Hardwick & Woodbury Connecting Track in Hardwick, Vermont.
Docket No, AB-444 (Sub-No. 1X).**

Dear Mr. Fitzgerald:

Thank you for the opportunity to comment on the above project and the inventory of resources over 50 years old along the proposed abandonment.

As you are aware, the Division for Historic Preservation reviews proposed federal undertakings pursuant to 36 CFR 800.4, regulations established by the Advisory Council on Historic Preservation to implement Section 106 of the National Historic Preservation Act. Project review consists of identifying the project's potential impacts to historic buildings and structures, historic districts, historic landscapes and settings, and to known or potential archeological resources.

Since the state of Vermont is going to continue ownership of the trackage, the Division for Historic Preservation is only commenting on the continuing responsibility for maintenance of historic resources identified in your Environmental and Historic Reports, Section 1105.8 and the sections proposed for abandonment that involve property where the Division has had or does have some ownership interest or question.

The structures you identified have not yet been evaluated for eligibility for the National or State Register of Historic Places. Since all the structures you identified are older than 50 years, the Division will assume that these resources are eligible for the State and

February 5, 2004

Multiple, Lamoille Valley Railroad Company

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National Register until sufficient information is provided to make a formal evaluation. Therefore, the Division for Historic Preservation will need to review all plans before any work is begun on these structures. It is particularly important that the truss bridges and stone arch bridges be protected.

The Division understands you intend to leave trackage on large bridges such as the Fisher Covered Bridge in Walcott. The issue of ownership of the covered bridge part of that structure should be resolved as part of the process.

We concur with the abandonment of the section of trackage at the western end of the line on land in Swanton that was transferred to the Division for Historic Preservation ca. 1974.

We look forward reviewing plans for future work on the identified historic structures along the railroad line. If you have any questions or need clarification regarding any of the above, please do not hesitate to contact Walter Maros, Assistant Environmental Review Coordinator, at (802) 828-3049.

Sincerely,

Vermont Division for Historic Preservation



Eric Gilbertson

Deputy State Historic Preservation Officer

Cc: April D. Hensel, Linda Matteson and Patrick Dakin, District 2 Coordinators
Edward Stanak, District 5 Coordinator
Charles Gallagher and Diana Peduzzi, District 7 Coordinators
Elizabeth Lord, Agency of Natural Resources Planning Division

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STATE OF VERMONT

AGENCY OF COMMERCE AND COMMUNITY DEVELOPMENT

February 3, 2005

Victoria Ratson, Chief
Environmental Analysis
AB444 (Sub-No. 1X)
Surface Transportation Board
Section of Environmental Analysis
1925 K Street N.W.
Washington, D.C. 20423-0001

**Re: Proposed Abandonment and Discontinuance Exemption, Lamoille Valley Railroad Company Line (1) From Swanton, Vermont to St. Johnsbury, Vermont and (2) Along the Hardwick & Woodbury Connecting Track in Hardwick, Vermont.
Docket No. AB-444 (Sub-No. 1X).**

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Dear Ms. Ratson:

Thank you for the opportunity to comment on the above project and the inventory of resources over 50 years old along the proposed abandonment mentioned above. Our comments are based on the information contained in the document, "Before the Surface Transportation Board, Washington, D.C., Docket No. AB-444 (Sub-No. 1X), LAMOILLE VALLEY RAILROAD COMPANY--ABANDONMENT EXEMPTION--IN CALEDONIA, WASHINGTON, ORLEANS, LAMOILLE AND FRANKLIN COUNTIES, VERMONT, ENVIRONMENTAL AND HISTORIC REPORTS IN COMPLIANCE WITH 49 C.F.R. PART 1105" by James B. Fitzgerald, Lamoille Valley Railroad Company, Vermont Agency of Transportation, Rail Section.

The Division for Historic Preservation has reviewed this proposed undertaking pursuant to 36 CFR 800.4, regulations established by the Advisory Council on Historic Preservation to implement Section 106 of the National Historic Preservation Act. Project review consists of identifying the project's potential impacts to historic buildings and structures, historic districts, historic landscapes and settings, and to known or potential archeological resources.

Since the state of Vermont is going to continue ownership of the trackage, the Division for Historic Preservation is only commenting on the continuing responsibility for maintenance of historic resources identified in the Environmental and Historic Report, Section 1105.8 mentioned above and the sections of trackage proposed for abandonment that involve property where the Division has had or does have some ownership interest or question. We understand that trackage will remain on large bridges such as the Fisher

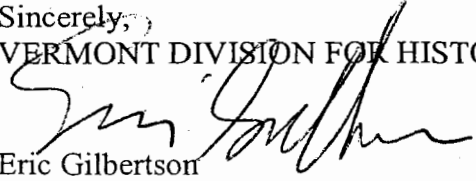
Covered Bridge in Wolcott and we concur with the abandonment of the section of trackage at the western end of the line on land in Swanton that was transferred to the Division for Historic Preservation ca. 1974.

Based on the information submitted to our office, it is our opinion that the proposed project will have no adverse effect to historic resources provided the following conditions are met:

1. Structures associated with the Lamoille Valley Railroad Company Line from Swanton, Vermont to St. Johnsbury, Vermont and along the Hardwick & Woodbury connecting track in Hardwick, Vermont that may be impacted by any work will be evaluated by a 36 CFR 800-qualified architectural historian to determine whether they are eligible for listing in the National Register of Historic Places and the Division will be given an opportunity to review and comment on the findings of the architectural historian;
2. Any projects that have the potential to affect historic resources identified during the above evaluation process will be reviewed by a 36 CFR 800-qualified architectural historian to determine the effects of the project on the historic resources and the Division will be given an opportunity to review and comment on the findings of the architectural historian;
3. Structures associated with the Lamoille Valley Railroad Company Line from Swanton, Vermont to St. Johnsbury, Vermont and along the Hardwick & Woodbury connecting track in Hardwick, Vermont identified by the consultant and the Division as being historic will be maintained.

We look forward to reviewing plans for future work on the identified historic structures along the railroad line. Again, thank you for the opportunity to comment on the above project. If you have any questions or need clarification regarding any of the above, please do not hesitate to contact Judith Williams Ehrlich, Environmental Review Coordinator, at (802) 828-3049.

Sincerely,
VERMONT DIVISION FOR HISTORIC PRESERVATION



Eric Gilbertson
Deputy State Historic Preservation Officer

Cc: John Fitzgerald, Lamoille Valley Railroad Company, c/o Vermont Agency of Transportation, Rail Section

April D. Hensel, Linda Matteson and Patrick Dakin, Vermont District Two
Environmental Commission Coordinators

Edward Stanak, Vermont District Five Environmental Commission Coordinator

Charles Gallagher and Diana Peduzzi, Vermont District Seven Environmental
Coordinators

Elizabeth Lord, Vermont Agency of Natural Resources Planning Division